



State of Washington
PUBLIC DISCLOSURE COMMISSION

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M E M O R A N D U M

TO: Members, Public Disclosure Commission

FROM: Susan Harris, Assistant Director

DATE: May 18, 2004

RE: Public Hearing and Possible Permanent Adoption of Proposed Rules

A public hearing has been scheduled for proposed new rule WAC 390-05-295 and amendments to WAC 390-17-030, WAC 390-37-030, WAC 390-37-041, WAC 390-18-030, WAC 390-16-207, WAC 390-16-238 and WAC 390-12-010.

Proposed New Rule

WAC 390-05-295 Definition—Promise or Promise to Pay

This new rule further clarifies the definition of “expenditure” found in RCW 42.17.020(19) by defining the terms “promise” or “promise to pay” to include any outstanding debt, order placed or any obligation to purchase services, specifically advertising space, broadcast time or other advertising related product or service.

Proposed Rule Amendments

WAC 390-17-030 Sample ballots and slate cards. The amendment to this rule is necessary to conform with 2003 statutory changes amending RCW 42.17.090 and creating new RCW 42.17.093. The reference to federal committees has been omitted, and the due date for out-of-state PAC reports is altered to the 20th of the month following the month in which activity occurred.

WAC 390-37-030 Enforcement Procedures—Status of citizen complainant and others. The amendment reinstates an option removed earlier as a result of the *Evergreen Freedom Foundation et al. v National Education Association* Court of Appeals Decision. Since the Court later reconsidered its decision, the language is again appropriate.

WAC 390-37-041 Enforcement Procedures—Allegations submitted to the attorney general’s office and/or prosecuting attorneys. This rule amendment was adopted on an emergency basis at your February 24, 2004 Commission meeting. In *Evergreen Freedom Foundation et al. v. National Education Association*, the Court of Appeals decided that the time in which a citizen could file his or her own lawsuit was “tolled” when the Attorney General forwarded a citizen action letter (45 day letter) to PDC for investigation. The Court later reconsidered its decision. This amendment removes the tolling language.

WAC 390-18-030 Political advertising—Exemptions from identification. Some forms of political advertising are deemed too impractical to show the sponsor’s name and address, “notice to voters” or “top five contributors.” The amendment defines “political tickers” and adds this type of advertising to the impractical list.

WAC 390-16-207 In-kind contributions—Explanation and reporting. The first sub-section of the amendment states that if an expenditure that constitutes an in-kind contribution is made twenty two or more days before the general election and written notice is given to the recipient candidate or committee, the contribution is not subject to the thresholds established by RCW 42.17.105(8). For instance, if a person directly pays a printing bill twenty two days before the general election and gives written notice to the recipient ballot measure committee on that day, the in-kind contribution is not subject to RCW 42.17.105(8).

The second sub-section of the amendment deals with non-monetary in-kind contributions, such as staff time. If written notice of the contribution, which will be realized during the 21 days before the election, is received by the recipient candidate or committee twenty two days before the general election, the contribution is not subject to RCW 42.17.105(8).

WAC 390-16-238 Personal use of contributions—Standard Personal use of campaign contributions is prohibited. This amendment provides additional guidance to candidates regarding expenditures that are “personal” rather than campaign related.

WAC 390-12-010 Public disclosure commission—regular meetings. For many years, the Commission has combined its November and December meetings into one held in early December. This amendment formalizes that practice.

A stakeholder meeting was held on Monday, March 15, 2004 to discuss the implications of the proposed rules. One individual attended. No major concerns were raised over the proposed new rule or the rule amendments.

Action by the Commission. Staff is requesting the Commission adopt the following:

New rule WAC 390-05-295

Amend WAC 390-17-030

WAC 390-37-030

WAC 390-37-041

WAC 390-18-030
WAC 390-16-207
WAC 390-16-238
WAC 390-12-010.

The effective date of the Commission action is 31 days after filing the CR 103 with the Office of the Code Reviser.